

**COURTROOM MINUTE SHEET**

DATE February 28, 2020

CIVIL NO. CIV-19-329-JD

Russ Godfrey, et al -vs- CSAA Fire & Casualty Company

COMMENCED 9:00 a.m. ENDED 10:10 a.m. TOTAL TIME 1 hr. and 10 min.

PROCEEDINGS Final Pretrial Conference

JUDGE JODI W. DISHMAN DEPUTY NYSSA VASQUEZ REPORTER N/A

PLFS COUNSEL Mark A. Engel, Esq. and Keith F. Givens, Esq.

DFTS COUNSEL Gerard F. Pignato, Esq and Matthew C. Kane, Esq.

Counsel appear as noted above. Final Pretrial Report [Doc. No. 58], Jury Selection, Voir Dire [Doc. Nos. 50, 62], Trial Schedule, Exhibits/Exhibit objections, Witnesses, Bench Conferences, Trial Objections, Offers of Proof, and Jury Instruction conference discussed. Opening Statements limited to 15 minutes per side. Closing arguments limited to 20 minutes per side; Plaintiffs permitted to split closing time for rebuttal. Parties to contact Courtroom Deputy, Nyssa Vasquez, to set up a time to test all equipment prior to trial. Parties advise intent to utilize same IT company and split costs. Additionally, Plaintiffs confirm that the breach of contract claim remains; Defendant has no objection to breach of contract claim being asserted as they have been proceeding as if claim exists. Parties estimate three days of trial. Court advises that trial will complete by Friday, March 13, 2020.

The Court makes the following rulings:

Defendant's motion to file objections and counterdesignations [Doc. No. 87, renewed in Doc. No. 98] and Plaintiffs' motion to amend/correct final pretrial report exhibit list [Doc. No. 89] are discussed and Court hears parties' arguments and positions on the two motions. The Court grants [Doc. No. 98 and 89] only to the extent stated herein and without further written order. First, Court permits Defendant to file objections to deposition designations and to submit counterdesignations as to Mr. Lippoldt only, on the deadlines set herein, based on concerns of prejudice if Mr. Lippoldt does not appear in person in Plaintiffs' case in chief. Plaintiffs granted leave to file objections to counterdesignations on the deadlines set herein. Second, parties to work together on deadlines below regarding joint exhibit list, Plaintiffs' additional exhibit list, and Defendant's additional exhibit list; that work and further breakdown of CSAA claims file exhibit into separate exhibits will take care of modification of bates labelling issues raised by Plaintiffs in Doc. No. 89; Plaintiffs are not permitted to list Sean Wiley expert report as an exhibit but are permitted to list Sean Wiley estimate and photographs as Plaintiffs' additional exhibits in the Amended Final Pretrial Report, per the deadline below.

The Court sets the following deadlines prior to trial:

Wednesday, March 4, 2020, by 5:00 p.m.:

(1) Plaintiffs to prepare and exchange with Defendant the Joint Exhibit Notebook and Bates-labelled exhibits. Only exhibits not Joint should be in Plaintiffs' Additional Exhibit List and Defendant's Additional

Exhibit List; and

(2) Defendant to file counterdesignations and objections to Mr. Lippoldt's deposition testimony identified by Plaintiffs' Doc. No. 64.

Friday, March 6, 2020, by 3:00 p.m.:

(1) Parties ordered to file an Amended Final Pretrial Report to include:

(i) further agreed stipulated facts on basic facts or dates not in dispute;

(ii) a joint Brief Preliminary Statement for use during jury selection and jury instruction;

(iii) Defendant's revised exhibit list identifying and breaking out exhibits in detail (which might end up being parties' joint exhibit list subject to discussion and agreement by parties); and

(iv) each witness and exhibit lists (on the Court Clerk's Form identified in (3) below) attached as exhibits to the Amended Final Pretrial Report (Joint Exhibit is Exhibit 1; Plaintiffs' Additional Exhibit List is Exhibit 2; Defendant's Additional Exhibit List is Exhibit 3).

(2) Parties to deliver to the Court three sets of each exhibit notebook (Joint, Additional Plaintiffs', and Additional Defendant's) (Plaintiffs responsible for joint exhibit notebooks).

(3) Parties to deliver to the Court four sets of witness and exhibit lists (Joint, Additional Plaintiffs', and Additional Defendant's, using the Court Clerk's Form).

(4) Plaintiffs to file any objections to Defendant's counterdesignations of Mr. Lippoldt's deposition testimony.

(5) Parties to deliver to Court final deposition designations for Mr. Costello [Plaintiffs' Doc. No. 52; Defendant's Doc. No. 65] marked in color on the transcripts.

(6) Parties to deliver to Court marked in different colors for Mr. Lippoldt the following on the transcript: Plaintiffs' designations [Doc. No. 64]; Defendant's objections to Plaintiffs' designations and counterdesignations (as filed on March 4, 2020); and Plaintiffs' objections to Defendant's counterdesignations.

(7) Parties to file any supplemental trial brief on concurrent causation (limited to 10 pages), assuming parties cannot come to an agreement or stipulation. AND

(8) Parties to advise court if settlement to avoid jurors being called for case.

Monday, March 9, 2020, by 5:00 p.m.:

(1) Parties to exchange demonstrative exhibits.

(2) Parties to exchange final video depositions designated to be used at trial (Mr. Lippoldt's to be combined in one video with Plaintiffs' and Defendant's designations/counterdesignations, if Mr. Lippoldt is not appearing live; Mr. Costello's to be split into each side's case in chief unless combination is agreed by the parties). AND

(3) Plaintiffs to provide to Defendant their order of witnesses.

Tuesday, March 10, 2020, by 9:00 a.m.: Parties to be in courtroom for jury selection to begin at 9:30 a.m.